

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Balm Post Office
Balm, Florida

Docket No. A2012-124

PUBLIC REPRESENTATIVE COMMENTS

(April 6, 2012)

The Postal Service's has determined to close the Balm, Florida post office and will offer window and other services including delivery route service from the Wimauma, Florida post office, located 5.4 miles away from the Balm post office. Final Determination at 2.¹

Upon careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioner, and the Postal Service Comments, the Public Representative concludes that it appears the Postal Service has followed applicable procedures. However, several factors in the Administrative Record and information in a Memo for the Record, dated March 20, 2012 and filed March 21, 2012, as a Supplemental Filing for the Administrative Record long after the Final Determination, warrant remand of the Final Decision.

For the reasons stated below, the Public representative believes the Final Determination should be remanded for further consideration.

I. STANDARD OF REVIEW

The PAEA delegates to the Commission the authority to review post office closings pursuant to 39 U.S.C. §404(d)(5). That section requires the Commission to

¹ The Final Determination also states on the same page that the Wimauma post office is five miles away.

review the Postal Service's determination to close a post office on the basis of the record that was before the Postal Service. The Commission shall set aside any determination, findings, and conclusions found to be – (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence on the record.

The Commission may affirm the Postal Service's determination or order the entire matter returned to the Postal Service for further consideration, but it may not modify the Postal Service's determination.

II. THE LAW GOVERNING POSTAL SERVICE DETERMINATIONS

Prior to making a determination to close or consolidate a post office, 39 U.S.C. §404(d)(1) requires that the Postal Service shall provide adequate notice of its intention at least 60 days prior to the proposed date of such action to persons affected by the post office closing to insure they have an opportunity to present their views. The applicable Postal Service's rules require posting of the Final Determination for at least 30 days. 39 CFR 241.3(g)(1)(ii).

In addition, prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. §404(d)(2) to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. §404(d)(2)(A).

After review, the Public Representative believes that the Postal Service has adequately considered both the effect on the employees of the Postal Service employed at the office being closed, and whether it can continue to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. In two other areas of consideration required by law, the Postal Service's conclusions fail to meet the requirements of the law.

III. EFFECT ON THE COMMUNITY:

The Postal Service must take into account the effects on the community. 39 U.S.C. 404(d)(2)(A)(i). That consideration may be arbitrary and capricious if it fails to consider an important aspect of the problem, explains the decision in a way that is counter to the evidence, or so implausible or unreasonable that it cannot be ascribed to a difference in views. The Postal Service may not merely recite different community effects if they are not accurate or that do not reasonably account for countervailing impacts. Unless the analysis is rational and reasonable, any conclusions drawn from that analysis are flawed.

Balm is a historic town several miles south of Tampa, Florida. The post office has been in existence for over 100 years in an area where 100 years is notable. Participant Statement, at 1 and Attachment A (newspaper article). Although the town is a treasured landmark, it is not classified as an historical landmark. Final Determination at 5, Concern Nos. 17 and 19. The comments in the Administrative Record indicate the historic value of the post office in Balm. For instance, the former postmaster at Balm in her initial review for the closing, stated, "It would be very sad to close the Balm Post Office, for it is one of the oldest rural Post Offices in Hillsborough Co....Balm Post Office celebrated their 100th birthday in August 2007." Administrative Record, Item No. 13 at 2. Thus, the closing of the historic Balm post office is important to the local community and of more than routine interest.

Rural route delivery service has been available to Balm post office customers for about 5 years. Participant Statement at 2. For various and unknown reasons, many Balm post office customers declined home delivery service and continue to rent 231 post office boxes at the Balm post office. *Id.* In response to the Proposal to close the Balm post office and to other requests for comment, several customers expressed concern about the "loss of community identity." The Postal Service's stock response is that "The Postal Service is helping to preserve community identity by continuing the use of the suspended Post Office name and ZIP Code in addresses" See Final Determination, Concerns 1,2, 6, 7 17, 18, 19, 20, 30 at 2-6; Concern No. 3 at 10. In fact, this canned response is disingenuous. It is misleading. The Postal Service's Final

Determination in response to one Concern indicates that anyone choosing route delivery must change their address from Balm to Wimauma and also must change their ZIP Code to the Wimauma ZIP Code. Final Determination at 5, Concern No. 15. The Postal Service states, "Your curbside delivery would be for mail addressed to your physical Wimauma address and Wimauma zip code, and mail sent to your Balm PO Box number and zip code would go to your PO Box at Wimauma." *Id.* This Postal Service decision would, of course, also apply to those of the 41 businesses in Balm with Balm post office boxes. See Administrative Record, Item No. 13 at 1.

Only Post Office Box customers moving their post office box to Wimauma will retain their Post Office Box number and the Balm town name ZIP Code. That is, only customers willing to undergo the inconvenience of driving an average of over five miles each day to pick-up their mail can retain their town name. Those accepting home delivery must succumb to the Wimauma name and ZIP Code. Thus, for that portion of the 41 businesses in Balm that have Balm post office boxes, they too must either change all of their business addresses or suffer the inconvenience of the extended daily trip to Wimauma. Ironically, a customer can only retain a Balm address and ZIP Code by leaving Balm for Wimauma and those who do not wish to retain a Balm address and ZIP Code do not need to leave Balm daily for Wimauma to pick up their mail.

Presumably, residents of Balm who do not have a post office box at Balm and who seek to rent a *new* office box at Wimauma will receive the Wimauma town name and ZIP Code. The Postal Service record does not discuss this eventuality. The Postal Service's method will thus effectively bring to a close the Balm address and ZIP Code. As the current Balm box holders terminate their box rentals, the Balm name and ZIP Code will not be available for new rentals and the historic Balm post office address will disappear into oblivion. This longer term effect on the Balm community is not addressed by the Postal Service either in the Final Determination or in the Administrative Record.

The closing of the Balm post office will therefore have a significantly greater impact on the community than the Postal Service recognizes in its Final Determination.

IV. ECONOMIC SAVINGS

The Final Determination concluded there will be a Total Annual Savings of \$84,241. This consists of savings from a postmaster salary and fringe benefits of \$77,841 and annual lease costs of \$8,400 for the total savings of \$84,241. The postmaster was promoted on June 5, 2010. Final Determination at 2. No offsetting costs were included in the total. Final Determination at 10. The rural route carrier analysis Form in the record did not estimate any additional deliveries or miles that would be required for deliveries and so did not estimate any additional delivery costs. Administrative Record, Item No. 17 at 2. On its face, given the potential to add up to approximately 231 new delivery customers to the existing Wimauma route, this is in error as there would be, in all probability, many conversions to local delivery if the post office box delivery service is moved to Wimauma.

The Postal Service filed the Administrative Record with the Commission in this proceeding on February 10, 2012. On March 21, 2012 the Postal Service supplemented the record in the Economic Savings portion, Part IV, of the Final Determination.² The supplement consists of a memo revising the total economic savings amount by deducting a one-time relocation cost (without explanation or identification) of \$1,900 and deducting the cost of replacement service of \$3,500 for 23 deliveries to new customers. The memo explains that Wimauma has established new delivery points for 23 new customers. Using the guidelines of the rural cost estimator from "CSDC I" for 23 new deliveries, the additional cost of approximately \$3,500 was calculated using an estimated rural cost per hour of \$30.00. The supplemental Memo to the Record revises downward the total annual estimated savings from closing the Balm post office to \$78,841.

² United States Postal Service Notice of Supplemental Filing, March 21, 2012. Attached to the Notice are a round date stamp cover page of the Final Determination for the posting and removal of the Final Determination at the Wimauma post office for 30 days from December 5, 2011 until January 6, 2012, and a Memo to the Record, Balm Docket: 13153954 – 33503, signed by Tracy Duran, CSDC Discontinuance Coordinator, Suncoast District, March 20, 2012.

Generally, the Administrative Record may not be modified after the Final Determination to support the decision. The applicable provision of law requires Commission review of the Final Determination to be based upon the record before the Postal Service in the making such determination. 39 U.S.C. 404(d)(5). Nevertheless, this Supplement confirms the apparent glaring error of omission in the economic savings estimation. Additional rural route deliveries will probably incur significant additional costs. The estimates provided in the supplemental Memo to the Record suggest that the total annual economic savings may well be negated by the cost of the additional deliveries.

The supplement estimates a cost of \$3,500 for 23 additional deliveries. The record is not clear how many potential additional deliveries may be requested, but the 23 new deliveries represent only 10 percent of the number of post office boxes in Balm. That will not be the total number of required new deliveries as the closing of the Balm post office has been delayed pending this appeal and the Postal Services' moratorium until at least May 15, 2012 on post office closings. Based on the facts presented in the memo, the potential additional cost of route deliveries might be 10 times the \$3,500 or \$35,000.

In addition, the one-time cost included in the supplemental memo of \$1,900 is unidentified. It may be for moving post office boxes or for the cost of closing the office such as rent until the current lease, which has no termination clause, expires in January 2013. Administrative Record, Item No. 15 at 1. Or the \$1,900 may be an estimated cost for Cluster Box Units (CBUs). Although not indicated in the record as a method of delivery or an expense in the Final Determination, CBUs are cited as an advantage of the proposal. Final Determination at 9. Whichever of these costs are represented by the \$1,900, the other items may also cause additional one-time costs.

Finally, the potential lost revenue from 231 post office box rentals at Balm has not been factored into the cost side of the savings equation. That could amount to thousands of dollars annually of lost revenue for the foreseeable future.

The revised estimate of \$78,841 for saving the postmaster's salary and fringe benefits would far exceed the cumulative costs, noted above, that have not been

included in the Final Determination. However, the Participant Statement points out the excessive estimate of savings estimated for the postmaster salary and fringe benefits. Participant Statement at 2. If the appropriate cost for an OIC's compensation were used in its stead, the potential savings would probably be negated. Neither the record nor the Final Determination address the impact of combining these very real and probable costs for new delivery points, incidental one-time costs, and lost post office box revenue on the savings estimate. The Postal Service's Final Determination does not address these issues.

V. CONCLUSION

Given these facts, the Commission may conclude the Final Determination to close the Balm post office is arbitrary, capricious, or unsupported by substantial evidence. The Commission should remand the Final Determination for further consideration and explanation of:

(1) the longer term effect on the Balm community where the Balm addresses and ZIP Codes will only remain for Balm post office box customers choosing to move their post office boxes and travel to Wimauma post office for mail delivery and which, when they are all terminated, will be the end of the Balm address and ZIP Code; and

(2) the effect on the estimated economic savings of (a) additional rural route delivery costs for a potential total of approximately 231 new delivery mail boxes, (b) additional one-time expenses that may not be listed in the Memo for the Record, and (c) loss of Balm post office box revenues.

Respectfully submitted,

Kenneth E. Richardson
Public Representative

901 New York Avenue, NW, Suite 200
Washington, DC 20268-0001
202-789-6859, FAX: 202-789-6861
email: richardsonke@prc.gov